

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.3935 OF 1993

Tarachand Gambhirmal Mutha.

...Petitioner.

Vs.

Food Grains Distribution Officer, Pune & Ors.

...Respondents.

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Mr. P.N. Karlekar for the Petitioner.

Mr. V. S. Gokhale for the Respondents.

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CORAM : A.P. SHAH AND

DR.D.Y.CHANDRACHUD, JJ.

June 7, 2005.

P.C.:

The Petitioner carries on a wholesale business in edible oil, Vanaspati and seeds since 30 years. It has been stated that a licence has been granted to the Petitioner under the Essential Commodities Act, 1955. The Food Grains Distribution Officer, Pune issued a notice to show cause on 1st January 1993 to the Petitioner under Section 6A of the Essential Commodities Act, 1955, asking the Petitioner to explain as to why he should not be penalised for an excess quantity of stock that was found upon inspection of his premises. It would appear that upon an inspection

of the shop on 16th December 1992, the Assistant Food Distribution Officer has found an excess quantity of stock in the establishment as compared to what is reflected in the Register. The Petitioner submitted his reply on 14th January 1993 and contended that the stock has been wrongly counted by the Assistant Food Distribution Officer and that certain quantity had, in fact, been sold by the Petitioner. By an order dated 5th February 1993, the Food Grains Distribution Officer found that the allegations contained in the show cause notice were established and the Petitioner was called upon to deposit an amount of Rs.53,830/- in the Government Treasury. The Petitioner carried the matter in appeal. The Appellate Authority by its order dated 4th August 1993 has come to the conclusion that there was, in fact, a discrepancy between the stock as reflected in the Register maintained by the Petitioner and the stock that was found in the premises. However, the Appellate Authority was of the view that there was no evidence before it to show that the Petitioner had engaged in an attempt to create an artificial scarcity with a view to hoard the stock. The breach was of a technical nature and hence, the Petitioner was called upon to

deposit an amount representing $1/4^{\text{th}}$ of the sum adjudicated by the trial authority, namely, an amount of Rs.13,457.50.

2. We have perused the order of the Appellate Authority. We see no reason to interfere with the finding that there was a discrepancy between the stock which was found in the premises of the Petitioner and the stock reflected in the Register maintained by the Petitioner. The existence of a discrepancy is a finding of fact. The Appellate Authority has, however, considered it proper to exercise its discretion to reduce the amount that was directed to be deposited by the Petitioner. When this petition was admitted, interim relief was refused. Having considered the matter in all its perspectives, we do not find that the impugned order of the Appellate Authority calls for any interference. The Petition is accordingly dismissed.

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